

*REMARKS**Information Disclosure Statement*

An Information Disclosure Statement (IDS), including a PTO-1449 Form, and copies of the 4 non-US patent/US published application documents listed on the Form, is submitted herewith. IDS's and PTO-1449 Forms were also submitted in this application on February 19, 2004, February 4, 2005, and March 18, 2005. It is respectfully requested that the Examiner place her initials in the appropriate area of the Forms, thereby indicating her consideration of the documents, and return the initialed Forms to Applicants.

The Pending Claims

Claims 1-74 remain pending, and claims 75-81 are added by this amendment.

Claims 75-81 have been added to describe the invention more clearly. No new matter has been added, the basis for the amended claim language may be found within the original specification, claims and drawings. Claims 75 and 80 are supported at, for example, paragraph 0032; claims 76 and 78 are supported at, for example, paragraph 0038; claims 77 and 79 are supported at, for example, paragraphs 0038 and 0039; claim 81 is supported at, for example, paragraph 0033.

*THE OFFICE ACTION**Restriction Requirement*

The Official Action mailed April 28, 2005 asserts there are 5 distinct inventions (identified as Groups I - V) claimed in the referenced application.

The Official Action asserts that the groups are independent and distinct and would require independent searches and that the searches for the inventions would not be coextensive. The Office Action further asserts that the referenced application contains patentably distinct species, and requires an election of a single species from each of species groups A-H and J (there is no species group I listed) if group I or II is selected, or each of species groups B, C, E, F and J if group IV is elected.

ELECTION OF GROUP AND SPECIES WITH TRAVERSE

In order to comply with the requirements of the Patent and Trademark Office, Applicants provisionally elect, *with traverse*, Group I (claims 1-33 and 51-55) classified in class 422, subclass 59.

Newly added dependent claims 75-81 depend from claims in Group I, and thus, it is believed claims 75-81 should also be included in Group I for examination purposes.

Applicants further elect, *with traverse*, polycyclic (Group A), heteroaromatic (Group B), sulfonate (Group C), mercapto-containing moiety (Group D), organic (Group E), cellulose (Group F), mercapto alkyl (Group G), naphthyl (Group H), and bromide (Group J) covered in claim 1-33 and 51-55, and also in claims 75-81. However, Applicants respectfully submit that the claims of all of the groups, and all species included therein, should be considered together in the examination of the present application.

DISCUSSION

The restriction is improper, at least with respect to the restriction between Groups I and II, and the restriction between groups III-V, and with respect to the species groupings.

The claims of Groups I and II both relate to a solid substrate comprising (a) a solid support; (b) a monocyclic or polycyclic group that is heterocyclic, heteroaromatic, or aromatic and that is substituted with a sulfate, sulfonate, phosphate, or phosphonate group; and (c) a linking group, comprising a mercapto-, ether-, or amino-containing moiety, that links (b) to the solid support. Thus, any search and consideration of the claimed subject matter of Group I will likely overlap and encompass that for the claimed subject matter of Group II. Accordingly, the searches for these two groups of claims cannot in any way be said to be completely "independent." This does not mean that the claims necessarily stand or fall together, but the overlapping nature of the searches remains and mitigates against a restriction requirement.

Additionally, it is respectfully submitted that it is improper to separate molecules into components for a species election, and, with respect to the species election, it is not clear from the Office Action how alleged species group J relates to alleged invention group I or II.

Examination of the patent application would be most expeditious by examining all pending claims together. As Section 803 of the MPEP requires,

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct and/or independent inventions.

This rule applies to a requirement for election of species, as clarified in MPEP Section 802.02, wherein the term "restriction" includes election of species.

The restriction requirement is improper because the Examiner has not shown that a search and examination of the entire application would, indeed, cause a *serious* burden, as required by Section 803 of the MPEP for proper restriction. In fact, a serious burden would arise only if examination of the patent application were restricted to one of the claim groups. Filing additional patent applications containing the non-elected claims would unnecessarily burden (1) the Patent and Trademark Office, since it must assume the additional labor involved in examining at least two separate applications; (2) the public, since it will have to

analyze at least two patents (assuming the subject matter of each claim group is found patentable) to ascertain all of the claimed subject matter; and (3) the Applicants, since the Applicants must bear the substantial financial burden and delays associated with prosecution of multiple patent applications and the payment of maintenance fees for multiple patents.

While the inventions defined by the claims may be distinct and independent, there is no demonstration that the search and examination of all the pending claims would entail a serious burden to the Examiner. In particular, it is submitted that any additional burden on the Examiner in considering at least Groups I-II together is not so serious as to require restriction, and therefore, Applicants respectfully request withdrawal of the restriction requirement.

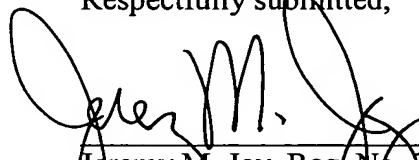
With regard to the requirement for election of species, the Office Action fails to meet the criteria under Section 803 of the MPEP, as is required for a proper election of species requirement, by not even so much as asserting there would be a serious burden on the Examiner if an election of species were not required. In addition, the Office Action failed to set forth any differences in the classification with respect to the species. In the absence of an undue burden, all of the species and claims must be examined together. In any event, Applicants understand that, consistent with an election of species requirement, other species will be considered within a generic claim encompassing the elected species upon an indication of allowable subject matter with respect to the generic claim.

For the reasons set forth above, Applicants respectfully submit there would be no “serious burden” on the Examiner to examine together all of the claims of Groups I-V, particularly, at least Groups I-II, along with all species included therein.

Conclusion

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



Jeremy M. Jay, Reg. No. 33,587

LEYDIG, VOIT & MAYER

700 Thirteenth Street, N.W., Suite 300

Washington, DC 20005-3960

(202) 737-6770 (telephone)

(202) 737-6776 (facsimile)

Date:

21 Sep. 2005

JMJ/jj